

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

December 4, 2006

**CALL TO PODIUM:**

Tony Tomasello, Assistant City Manager

**RESPONSIBLE STAFF:**

Tony Tomasello, Assistant City Manager

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
<b>X</b>	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised Public Hearing	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE:**

Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Funding Agreement with Bozzuto Homes, Inc. to Provide Financial Assistance to Purchasers of Homes at the Summit Crossing Housing Development in Olde Towne Gaithersburg

**SUPPORTING BACKGROUND:**

At the last Mayor and Council meeting, staff described a request from Bozzuto Homes, Inc. for the City to provide financial assistance to purchasers of homes at the Summit Crossing development in Olde Towne. The assistance would come in the form of grants to individual purchasers to be used for down payments and closing costs

Our Strategic Plan established that we would actively pursue development and redevelopment in Olde Towne. In the past we have successfully used financial incentives to move projects forward. Examples of this are the Park Station Apartments and the 12 and 16 South Summit Avenue office buildings.

Summit Crossing is a forty-five unit housing development located at the corner of North Summit Avenue and Park Avenue. The project closely follows the plan for the site envisioned by the Olde Towne Gaithersburg Master Plan adopted in 2005.

The request involves providing matching funds to prospective homeowners to be used for closing cost and down payment assistance. General details are contained in the attached Memorandum of Understanding (MOU) which would subsequently be replaced by a formal Funding Agreement. Key contingencies are outlined in the MOU including construction schedule, use of City funds, matching and documentation requirements. Assuming all buyers utilize the program, the City's contribution would be \$337,500.

Staff believes the project supports key City objectives including home ownership, economic development, and use of transit. The development is also expected to generate substantial permit fees during the construction phase, and subsequent positive net tax revenues to the City when completed.

**Attachment: Memorandum of Understanding**

**DESIRED OUTCOME:**

Vote on Resolution.

# Memorandum of Understanding

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006 by and among the City of Gaithersburg, Maryland (the “City”) and Bozzuto Homes, Inc. (“Bozzuto”).

## *Witnesseth:*

WHEREAS implementation of the Olde Towne Master Plan is one of the City’s priority Strategic Directions; and,

WHEREAS, the Strategic Direction states that the City will actively pursue development and redevelopment opportunities in Olde Towne; and,

WHEREAS, Bozzuto desires to construct a 45 unit residential development project that will provide home ownership opportunities and will bring new residents to Olde Towne; and,

WHEREAS, Bozzuto has obtained the necessary site development approvals to commence construction, and;

WHEREAS, Bozzuto has requested that the City provide down payment and/or closing cost assistance to purchasers homes at the project, and;

WHEREAS, any City financial assistance must be formally approved through a Resolution of the Mayor and City Council City; and,

WHEREAS, the City and Bozzuto desire to set forth the proposed terms and conditions of the City’s financial assistance to the Project:

NOW, THEREFORE, in consideration of the mutual understandings and agreements herein, the City and Bozzuto hereby agree to the following MEMORANDUM OF UNDERSTANDING:

1. Project The Project consists of 45 individual units to be constructed at the corner of North Summit Avenue and Park Avenue in Gaithersburg, Maryland. The approved plan includes 36 stacked “2 over 2” units, 4 duplex units, and 5 townhouses.
2. Funding Agreement Subsequent to approval by Resolution of the Mayor and City Council of Gaithersburg of the City’s participation in the Project, this Memorandum of Understanding will be replaced by a negotiated Funding Agreement. The Funding Agreement will be the final documentation of the transactions contemplated herein. The terms of this Memorandum of Understanding shall not survive execution of the Funding Agreement.
3. Construction Schedule Bozzuto will resume construction of the Project within 90 days of the final ratification of 6 contracts of sale for units at the Project and shall endeavor to construct a minimum of 12 units within one year. Bozzuto shall then endeavor to construct the 33 remaining units within 24 months of the execution of the Funding Agreement. Bozzuto may request up to a 12 month extension to complete the Project, however City Funds will only be available for units completed (or commencing construction) during the anticipated 24 month construction period, plus any approved extensions.
4. City Support Subject to the stipulations herein, the City will provide up to a total of \$337,500 in financial assistance to purchasers of homes at the Project. Each purchaser of a stacked unit will be eligible to receive \$6,000. Purchasers of duplex or townhouse units will be eligible to receive \$7,500. First-time homebuyers (under a determination formula to be defined by the City within the Funding Agreement) will be eligible to receive an additional \$1,500 towards the purchase of a stacked unit.
5. Use of City Funds City funds shall be used only for down payment and closing cost assistance to purchasers of owner-occupied units at the Project. Units sold as investment or rental properties are not eligible for City funds.
6. Bozzuto Matching Funds Bozzuto will provide dollar-for-dollar matching funds to any City contribution to individual purchasers at the Project.
7. Transfer of City Funds Individual City contributions will be provided to purchasers at closing via distribution directly to the settlement agent or through a negotiated escrow arrangement. Alternatively, Bozzuto may elect to provide the funds directly to the purchasers and seek reimbursement from the City within a reasonable time.
8. Documentation Bozzuto will provide documentation that the City funds were applied appropriately and that its matching funds were provided in accordance with the Funding Agreement.

9. No Partnership Nothing in this Memorandum of Agreement or any subsequent agreement shall be deemed or construed to create a partnership or joint venture between Bozzuto and the City.

IN WITNESS WHEREOF, the City and Bozzuto have executed and sealed this Memorandum of Understanding as of the date first written above.

GAITHERSBURG, MARYLAND

BOZZUTO HOMES, INC.

By: \_\_\_\_\_

David B. Humpton  
City Manager

By: \_\_\_\_\_

Richard Mostyn  
\_\_\_\_\_

RESOLUTION No. \_\_\_\_\_

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY  
MANAGER TO NEGOTIATE AND EXECUTE A FUNDING AGREEMENT WITH  
BOZZUTO HOMES, INC. TO PROVIDE FINANCIAL ASSISTANCE TO PURCHASERS  
OF HOMES AT THE SUMMIT CROSSING HOUSING DEVELOPMENT IN  
OLDE TOWNE GAITHERSBURG

WHEREAS, implementation of the Olde Towne Master Plan is one of the City's  
priority Strategic Directions; and,

WHEREAS, the Strategic Direction states that the City will actively pursue  
development and redevelopment opportunities in Olde Towne; and,

WHEREAS, Bozzuto desires to construct a 45 unit residential development  
project (Summit Crossing) that will provide home ownership opportunities, bring new  
residents to Olde Towne, and support economic development and use of transit in the  
area; and,

WHEREAS, Bozzuto has obtained the necessary site development approvals to  
commence construction; and,

WHEREAS, Bozzuto has requested that the City provide down payment and/or  
closing cost assistance to certain purchasers of homes at the project, and;

WHEREAS, any City financial assistance is contingent upon approval of a  
Resolution of the Mayor and City Council; and,

WHEREAS, the City and Bozzuto have to set forth the proposed terms and  
conditions of the City's financial assistance to the project in a Memorandum of  
Understanding; and,

WHEREAS, the Memorandum of Understanding contemplates that the final  
terms and conditions of the City's assistance to the project shall be contained in a  
subsequent Funding Agreement:

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is immediately authorized to negotiate and execute a Funding Agreement with Bozzuto Homes, Inc. to provide financial assistance to purchasers of homes at the Summit Crossing housing development in Olde Towne Gaithersburg.

ADOPTED by the City Council on this 4<sup>th</sup> day of December, 2006.

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SIDNEY A. KATZ, Mayor and  
President of the Council

THIS IS TO CERTIFY that the foregoing  
Resolution was adopted by the City Council  
in public meeting assembled on the 4<sup>th</sup> day  
of December, 2006.

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David B. Humpton, City Manager